

# ADMINISTRATION, AUDIT, AND ENFORCEMENT

During the 2001-2002 reporting period, the Charitable Gaming Division initiated and/or resolved separate administrative actions involving gaming licenses. Below is a summary of the Division's Administrative Actions:

## Administrative Orders Issued:

Administrative Fine ..... 1

## Administrative Actions Initiated and Pending:

Administrative Fine ..... 6  
License Denial ..... 4  
License Revocation ..... 2  
License Suspension ..... 1

## Administrative Actions Initiated and Resolved without an Order:

License Denial, Suspension, Cancellation, Revocation  
Rescinded\* ..... 12  
Resolved by Operation of Law\*\* ..... 20  
Resolved by Stipulation, Suspension, and/or Fine ..... 4  
Dismissed ..... 9  
Waiver of Hearing and Voluntary Surrender of License ..... 1

## Administrative Fine

Waiver of Hearing and Payment of Fine\*\* ..... 14  
Waiver of Hearing and Voluntary Surrender of License ..... 1  
Dismissed ..... 3

\*License denials were rescinded for a number of reasons, including the applicant withdrew the application and the payment of delinquent taxes in instances where the license denial was based on nonpayment of taxes.

\*\*Resolution by operation of law occurs when a license application denial becomes final because a license applicant does not respond to a Notice of Intent to deny within the 30-day time period allowed to request an administrative hearing.

\*\*\*Total amount collected: \$3,500. Monies collected from the fines assessed are deposited by the State Treasurer into the Permanent School Fund for the support and maintenance of schools in Nebraska.

Temporary licenses and authorizations were granted by the State Tax Commissioner to applicants where the Department sought to deny a license application in order to protect the rights of the parties during the pendency of any administrative or court proceedings. As of the close of the annual reporting period, the following temporary licenses and authorizations were granted:

Utilization of Funds Member ..... 5  
Class I Lottery by the Sale of Pickle Cards ..... 2  
Pickle Card Operator ..... 1  
Pickle Card Authorizations ..... 1  
Manufacturer-Distributor ..... 1

**The Licensing Section** of the Charitable Gaming Division is responsible for the licensing of individuals, businesses, nonprofit organizations, counties, cities, and villages which conduct charitable gaming activities in Nebraska.

The county/city lottery license renewals were completed in May of 2002 using their new expiration date of May 31 of even-numbered years. The Licensing Section is currently preparing for the first county/city lottery worker license renewal. Due to the enactment of LB545, these licenses will expire on May 31, 2003, and must be renewed biennially.

In September of 2002, the Licensing Section completed the second and final phase of biennial licensing. Licenses issued to nonprofit organizations which are tax-exempt under section 501(c)(3) or (c)(4) expire on September 30 of odd-numbered years while licenses issued to nonprofit organizations having tax exempt status other than 501(c)(3) or (c)(4) expire on September 30 of even-numbered years.

**The Policy Section** is responsible for the implementation of legislation enacted by the Nebraska Legislature relative to charitable gaming activities, identification of needed legislative changes in the charitable gaming areas which it regulates, recommendation and drafting of proposed legislation relative to charitable gaming, promulgation of administrative regulations and revenue rulings to clarify and supplement statutory provisions, development and publication of information guides and a periodic newsletter for gaming licensees, and for the rendering of day-to-day opinions and interpretations of charitable gaming laws.

During this past legislative session, the Nebraska Legislature enacted LB545, LB1126, and LB1310 and approved LR433. We reported last year that LB545 and LB546, both introduced by the General Affairs Committee on behalf of the Department of Revenue, were advanced to General File in 2001 and were carried over to the 2002 session. During the 2002 session, the provisions of LB546 were amended into LB545 before LB545 was passed. LB545 made numerous technical changes to various sections of bingo, lottery by pickle cards, and lottery/raffle activities conducted by nonprofit organizations as well as county/city lotteries conducted by counties, cities, or villages. LB545 also made several changes to the licensing of lottery workers, including the establishment of an expiration date for lottery worker licenses on May 31 of odd-numbered years. Perhaps the most significant change made by LB545 is the ability for the Department to prorate charitable gaming licensing fees. With the implementation of biennial licensing starting in 2001, the ability to prorate license fees on an annual basis is more equitable to those new license applicants who do not apply for a license until the second year of the biennium. LB1126 authorized the Department to deny a license application or suspend, cancel, or revoke a gaming license when such applicant or licensee has been cited and sanctioned by the Nebraska Liquor Control Commission for illegal gambling activities. LB1310, an appropriation bill impacting numerous funds, modified the transfer of any balance remaining in the Charitable Gaming Operations Fund (40% of the taxes collected) not used for the administration and enforcement duties of the Division. On or before November 1 of each year \$50,000 is to be transferred to the Compulsive Gamblers Assistance Fund unless the Charitable Operations Fund contains less than \$50,000. Any additional balance remaining after the annual transfer of \$50,000 to the Compulsive Gamblers Assistance Fund is to be transferred to the General Fund at the direction of the Legislature. Finally, LR433 was passed this year to require an interim study of the lottery/raffle area. A legislative hearing was held on November 8, 2002.

The revised bingo regulations which were being reviewed by the Attorney General at the time of publication of last year's report became effective on March 10, 2002. A public hearing was held on July 17, 2002, for amended and new bingo, pickle card, lottery and raffle, small lottery and raffle, and county/city lottery regulations. These regulations incorporated law changes that have occurred in bingo, pickle card, lottery/raffle, and county/city lottery over the past several years. In addition, the licensing regulations for bingo, pickle card, and lottery/raffle needed to provide for the biennial licensing provisions enacted by LB1086 in 2000. The licensing requirements for sales outlet locations and lottery workers were added to the county/city lottery regulations. And a new regulation in each gaming area was needed to implement the proration of license fees as required by LB545 in 2002. These regulations took effect on November 12, 2002.

The Policy Section continues to work on revisions to county/city lottery, pickle card, lottery/raffle, and small lottery/raffle regulations to reflect statutory changes and address other regulatory issues. A public hearing is expected to be held in 2003.

Although overall wagering in charitable gaming activities increased slightly this year, there continue to be proposals made by interested parties to enhance the existing games. In the 2001 report we indicated a pending proposal to offer a \$2 million progressive keno jackpot involving a 5-ball draw as opposed to the usual 20-ball draw. The licensee who originally proposed this concept has indicated its desire to delay further consideration of the proposal until late 2003. We also have reviewed proposals relating to the sale of pickle cards and the use of bar code technology to display on a dispensing device whether a pickle card is a winner or loser. All proposals of this type which we have reviewed to date would require legislative changes before such technology could be authorized by the Department.

Upgrades and reorganization of the Charitable Gaming Division's portion of the Department of Revenue's Web site continue so that it is more user friendly. All gaming laws, regulations, revenue rulings, information guides, and most forms, including some that may be completed on your personal computer, are now grouped by gaming activity. The counties, cities, villages, and lottery operators are using the online database of licensed county/city lottery workers and the list of individuals who have recently filed a county/city lottery worker application although such application has not completed processing. We continue to explore options for using E-commerce, such as a potential method for submitting certain license renewal applications.

**The Audit Section** of the Charitable Gaming Division is responsible for the financial enforcement and compliance review of licensed organizations conducting bingo, pickle card, and lottery/raffle activities and of licensed counties, cities, and villages conducting county/city lottery (keno). The section is also responsible for the review of certain financial aspects of the computerized keno systems that are approved by the department for use in county and city lottery operations.

In addition to routine and requested field audits, the Audit Section conducted monthly reviews of the pickle card tax returns submitted by licensed distributors; monthly review of the pickle card activity of organizations with significant cash shortages; reviews of bingo paper usage reflected on quarterly reports filed by Class II bingo licensees; quarterly reviews of the tax returns submitted by organizations conducting bingo and lottery/raffle and by counties, cities, and villages conducting keno; annual reviews of the gaming activity reports for counties, cities, and villages conducting keno and all nonprofit organizations which were involved in charitable gaming activity. The activity breakdown is as follows:

- 620 Pickle card annual reports reviewed
- 201 Bingo annual reports reviewed
- 275 Lottery/raffle annual reports reviewed
- 98 County/city lottery annual reports reviewed
- 129 Annual report nonfilers identified and referred to Inspection Section and/or Investigative Services
- 19 Annual report shortages or audited losses identified and referred to Inspection Section and/or Investigative Services
- 27 Other annual report violations identified and referred to Inspection Section and/or Investigative Services
- 13 Other annual report violations identified and referred to Policy Section and/or Legal Services
- 2 Field audits of bingo operations
- 19 Field audits of pickle card operations
- 8 Field audits of keno operations (county/city lottery)
- 227 Letters written to licensees in an attempt to explain problems with the annual reports and how a nonprofit can use the annual reports to audit themselves
- 16 Tracking of monthly reconciliation of pickle card funds for organizations reporting a shortage of funds
- 6 Organizations remitting additional tax of \$3,603.00 as a result of the annual report review or bingo audit
- 4 Organizations placed on legal stipulation (probation) as result of audits

In addition, memoranda, with audit findings and work papers, were prepared where there were violations of gaming laws and provided to Legal and Investigative Services for further action.

The Audit Section prepared for and testified for the Department of Revenue in one (1) formal hearing regarding gaming violations. A pickle card presentation, including handouts and transparencies, was completed for the state conference held for representatives of all Veterans of Foreign Wars within Nebraska.

Considerable time and effort has been devoted to cross training within the section and with other Charitable Gaming staff in the keno audit and inspection areas. The Audit Section also worked with the Policy Section by proposing and reviewing regulation revisions.

**The Inspection Section** consists of six inspectors supervised by the Charitable Gaming Division Audit Manager. The inspectors work out of regional offices located in Scottsbluff, Grand Island, Norfolk, and Omaha, as well as the main office in Lincoln. While the inspectors continue to review the conduct of bingo and the sales of pickle cards by licensees, they have extended their review to the financial reporting and record keeping of licensed organizations and their use of charitable gaming funds for lawful purposes. Inspectors are also reviewing the conduct of county/city lottery (keno) activities including the licensing of keno writers, the sponsoring community's controls, and the use of the funds designated for community betterment purposes. During the 2002 reporting period, the staff assigned to inspections conducted the following charitable gaming activities:

- 112 Bingo game inspections
- 450 Organization inspections (pickle card and lottery/raffle)
- 2,002 Pickle card operator inspections
- 238 Keno compliance visitations
- 11 Formal presentations to gaming licensees or potential licensees
- 37 Illegal device follow-ups
- 1,802 MAD inspections

**Investigative Services** is responsible for investigative and enforcement functions involving charitable gaming activities, as well as numerous other responsibilities within the Department. Investigative Services staff members are located at various locations throughout the State, having responsibility for general investigations and license applicant background investigations.

Investigative Services continues to work closely with the Charitable Gaming Division on gaming related matters in an effort to keep gaming activities as well enforced as possible, and yet flexible enough to accommodate the public. During recent years, wagering on charitable gaming activities has shown a decline which, like in the past, has had a similar effect on the gaming activities of Investigative Services, resulting in a 20% decrease in general investigations during this reporting period, compared to an 11% decrease the previous reporting period. The investigations conducted by the service area are both civil and criminal in nature and, following completion, a large number of those investigations are forwarded to local prosecuting attorneys for potential criminal prosecution. Investigative Services continues to enjoy an excellent working relationship with various law enforcement agencies and prosecuting attorneys throughout the State.

During the reporting period, Investigative Services conducted the following charitable gaming-related investigative and enforcement-related activities:

- 5 County/city lottery background investigations
- 182 Investigations resulting from alleged violations and/or complaints (all gaming activities combined)